IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

CRP.No. 1521 of 2003()

I.A.335/02 IN
OS.312/1995 of ADDL.SUB COURT, KOCHI
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REVN. PETITIONER: PETITIONER/PLAINITIFF:

SHEELA THOMAS, W/O. THOMAS,
AGED 45 YEARS, ALUMPARAMBIL HOUSE,
KUMBALANGI P.O., KOCHI-6.

BY ADV. SRI.A.X.VARGHESE

RESPONDENTS: RESPONDENT/DEFENDANTS:
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1. MARY ANTONY MUKKATH, C/O. MANAKKAL VEEDU
1/131, FORT KOCHI, AZHEEKKAL P.O., KOCHI-1.

2. MAXIVAS, MAXIWELL COLLECTIONS,
PERUMPADAPPU, KOCHI-6.

3. MANOJ ANTONY, C/O. MANAKKAL VEEDU,
1/131, FORT KOCHI, KOCHI-1,
AZHEEKKAL P.O.

4. XAVIER ANTONY, MUKKATH,
C/O. MANAKKAL VEEDU, 1/131, FORT KOCHI,
KOCHI-1, AZHEEKKAL P.O.

BY ADV. SRI.N.RATHEESH FOR R1
SRI.A.P.SHERI
SRI.SIBI THOMAS JACOB

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.Sasidharan Nambiar,J.

C.R.P.No.1521 of 2003

Dated this the 19th day of December,2006

O.R.D.E.R

Petitioner is the plaintiff. Respondents are the defendants. Petitioner filed I.A.335/02 an application to amend the decree to incorporate the court fee and advocate's fee granted by the judgment. These amounts were not incorporated in the decree as the petitioner did not furnish the memo of cost before the decree was drafted. Petition was dismissed holding that there was a delay of 2039 days in submitting the memo of cost and therefore the decree cannot be amended.

2.Learned counsel appearing for petitioner and respondents were heard.

3. It is not disputed that the judgment provides for cost to the petitioner. The amount due to the petitioner towards the court fee and advocate's fee were not incorporated in the decree as the memo of cost and the details were not

furnished in time. Even if there was some delay, in the interest of justice, the Sub Judge should have allowed the application.

The Civil Revision Petition is allowed. The order passed in I.A.335/02 dated 28.2.03 is set aside. I.A.335/02 is remanded. The Sub Judge, Kochi is directed to pass appropriate order in I.A.335/02 permitting to amend the decree verifying the correctness of the cost and court fees.

M.Sasidharan Nambiar
Judge

tpl/-

M.SASIDHARAN NAMBIAR, J.

CRL.R.P.NO. /97

ORDER

MARCH,2006